IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. 1235 OF 1998.

Punjab & Sind Bank,
a body corporate constituted
under the Banking Companies
(Acquisition & Transfer of
Undertaking) Act, 1980 having
its Head Office at Bank House,
21, Rajendra Place, New Delhi
and having their branch office
at Fort, Mumbai 400 026. ... Plaintiff.

Versus.

1. Ms.Priti C.Vora,
2. Ms.Mrudula C.Vora,
3. Shri Chandrakant Vora,
   All of Mumbai, Indian Inhabitants
   residing at 10-B, Shashi Tara
   Apartment, S.V.Road, Borivali
   West, Mumbai 400 103. ... Defendants.

Shri Kirit Mody i/by M/s.Haridas & Co. for the Plaintiff.

None for the Defendants.

CORAM : ABHAY S.OKA, J.

DATED : 4th July, 2007.

JUDGMENT.:

1. Heard the learned Counsel appearing for the Plaintiff. The Defendants have not filed written statement, though they were served with the writ of summons.

2. According to the case of the Plaintiff, on the request made by the 1st and 2nd Defendants, a cash credit facility having a limit of Rs.1,50,000/- was

granted by the Plaintiff in favour of the 1st and 2nd Defendants. The 1st and 2nd Defendants executed various documents including a demand promissory note dated 3rd June 1994. It is the case of the Plaintiff that the Defendants executed an agreement of pledge in favour of the Plaintiff by which they pledged certain shares in favour of the Plaintiff. A notice was issued by the Plaintiff to the Defendants calling upon them to pay the amount due and payable under the Cash Credit facility.

3. A compilation of original documents is tendered by the leaned Counsel for the Plaintiff. The same is taken on record and marked "X" for identification. The Plaintiff has produced a true certified extract of the account of the Defendants.

4. Considering the averments made in the plaint and the documents placed on record, this is a fit case for passing a decree by invoking Rule 10 of Order VIII of the Code of Civil Procedure, 1908. The Plaintiff has prayed for interest at the rate of 18.5% per annum from the date of suit and interest tax at the rate of 2% per annum from the date of suit till payment or realisation. Considering the facts and circumstances of the case, the interest is fixed at the rate of 18% per annum. However, under section 34 of the Code of Civil Procedure, 1908, prayer for grant of interest tax cannot

be granted.

4. Hence there will be a decree in terms of prayer clauses (a), (b), (c) and (g) with a modification that the interest shall be at the rate of 18% per annum from the date of the suit till payment or realisation.

Judge.